

## **REMARKS**

This amendment is responsive to the Office Action dated August 4, 2009 and the Advisory Action dated October 23, 2009. Claims 1 and 3-10 are pending. The Office Action rejected Claims 1 and 3-10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,907,952 to Inoue et al. ("Inoue"). Applicants have amended Claim 1. The amendment to Claim 1 serves to more clearly define the invention and overcome the rejections. No new matter has been added by this amendment. In light of the remarks presented below, Applicants request reconsideration and allowance of all now-pending claims of the present application.

### Telephone Interview

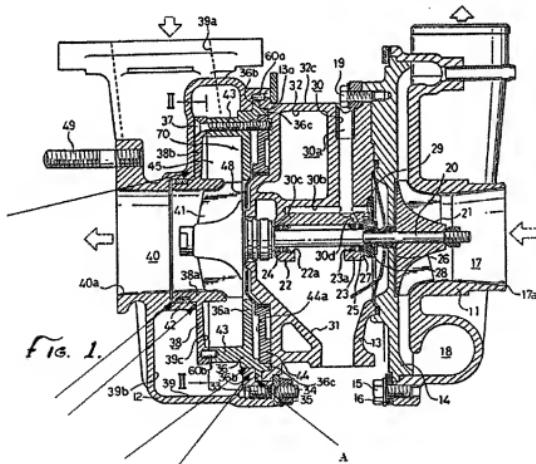
The undersigned would like to express his gratitude for the Examiner's courtesy in conducting telephone interviews on October 1, 2009 to discuss the Inoue reference vis-à-vis the claims that were examined. In the interview, the undersigned explained how Inoue fails to teach or suggest various aspects of the claimed invention. The Examiner maintained his position that the claim rejections are valid, but noted his belief that the present invention may contain novel features. In doing so, the Examiner approved of language which may overcome the present rejections and more clearly define the novel features of the invention. This language has been incorporated into the claims, as explained below.

### Remarks/Arguments

The invention of the present application relates to a turbocharger comprising a variable nozzle device and an exhaust housing which is mechanically and/or thermally decoupled from the variable nozzle device. In particular, independent Claim 1 recites "an exhaust housing being mechanically and/or thermally decoupled from the variable nozzle device," "wherein the peripheral ring is radially and axially spaced from the exhaust housing, so that any contact between the exhaust housing and the peripheral ring is avoided." Claim 1 now further recites that "transmission of a mechanical or thermal load from the exhaust housing to the variable nozzle device does not occur." Support for this new limitation is found at least in paragraph 6 of

the specification, which states that "An advantage of the invention set forth in claim 1 is in particular that the transmission of a mechanically and thermally created load from the exhaust housing to the components of the variable nozzle device is efficiently avoided." For example, as may be seen in FIG. 1, no direct transmission of mechanical or thermal load occurs during operation, because there is no direct contact between exhaust housing 47 and the variable nozzle device (including the ring-shaped insert 11, nozzle ring 23, vane pins 25, vanes 27, vane arms 29, and unison ring 31).

These limitations are not found in Inoue. Rather, Inoue teaches a turbocharger with a turbine casing 12, vane holder (base plate) 36, and top plate 38 jointly constituting a turbine housing. Four moveable vanes 45 are fixedly supported on rotatable pins 47 axially inserted through respective holes defined in the vane holder 36. There are multiple points of contact between the vane holder 36 and the turbine casing 12 and additionally between the top plate 38 and the turbine casing in embodiments taught by Inoue. The below diagram illustrates examples of some of these points of contact as indicated by the arrows added to Fig. 1 of Inoue.



Thus, the turbocharger of Inoue may not be said to meet the limitations of “an exhaust housing being mechanically and/or thermally decoupled from the variable nozzle device,” “wherein the peripheral ring is radially and axially spaced from the exhaust housing, so that any contact between the exhaust housing and the peripheral ring is avoided” and “whereby transmission of a mechanical or thermal load from the exhaust housing to the variable nozzle device does not occur.” In particular, the point labeled “A” in the above diagram appears in each of the illustrated embodiments. At least at point A, there will be a transmission of thermal and mechanical loads from the turbine casing 12 to the vane holder 36 due to the vane holder being “sandwiched” between the turbine casing and the central casing 13. This structural relationship causes thermal and mechanical loads to transmit directly from the turbine housing 12 to the vane holder 36 at least at this point. Accordingly, Applicants respectfully submit that the limitations of currently amended independent Claim 1 are not met by Inoue.

### CONCLUSION

In view of the foregoing amendment and remarks, Applicants respectfully submit that Claims 1 and 3-10 of the present application are now in condition for allowance. It is respectfully requested that a Notice of Allowance for all pending claims be issued in due course. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

The patentability of the sole independent claim has been argued as set forth above and thus Applicants will not take this opportunity to argue the merits of the rejection with regard to the dependent claims. However, Applicants do not concede that the dependent claims are not independently patentable and reserve the right to argue the patentability of the dependent claims at a later date if necessary.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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